

RD AN No. 3554 (1980-D)
May 30, 2000

TO: All State Directors
Rural Development

ATTN: Rural Housing Program Directors and
Guaranteed Rural Housing Coordinators

FROM: James C. Kearney
Administrator
Rural Housing Service

SUBJECT: Single Family Housing Guaranteed Loan Program (SFHGLP)
RD Instruction 1980-D, Section 1980.324
Lender Charges and Fees

PURPOSE/INTENDED OUTCOME:

This Administrative Notice (AN) is intended to elaborate upon the Rural Housing Service (RHS) SFHGLP requirements for routine charges and fees that lenders may charge borrowers.

The purpose of RD Instruction 1980-D, Section 1980.324(a) is to prevent lenders from charging excessive fees for loans guaranteed under the SFHGLP, and to protect low- and moderate-income borrowers from paying excessive loan fees, or borrowing funds for fees that are not reasonable and/or customary.

This AN does not apply to SFHGLP maximum interest rate requirements. Maximum interest rates should be handled according to RD Instruction 1980-D, Section 1980.320.

COMPARISON WITH PREVIOUS AN:

There is no previous AN on this subject.

EXPIRATION DATE:
May 31, 2001

FILING INSTRUCTIONS:
Preceding RD Instruction 1980-D

BACKGROUND:

The Agency does not require that all lenders charge fees that are alike to those of their competitors. Rather, individual GRH lenders are expected to assess charges and fees for GRH loans that are no greater than those they charge other applicants for similar type transactions. While most lenders comply with the requirements for charging fees that are reasonable and customary, cases have arisen where lender fees have been abnormally high. Lender charges and fees may generally consist of appraisal fees, attorney fees, broker fees, and other fees associated with originating and closing a single family housing real estate loan.

IMPLEMENTATION RESPONSIBILITIES:

RD Instruction 1980-D, Section 1980.324(a) states that lenders “may establish the charges and fees for the loan, provided they are the same as those charged other applicants for similar types of transactions.”

RHS considers loans guaranteed under the SFHGLP to be similar to loans insured or guaranteed by the Federal Housing Administration (FHA) or by the Department of Veteran Affairs (VA). Fees charged by a lender to borrowers for loans guaranteed under the SFHGLP should not exceed fees charged by the same lender for loans insured or guaranteed by the FHA or VA. Other high loan-to-value home mortgage products can also be used for comparison.

The Agency reviews loan applications for completeness and to determine whether the proposed loan is to an eligible applicant for an eligible loan purpose. If when reviewing loan applications the Agency determines that a lender proposes to charge fees or use loan funds to pay for fees that appear questionable or too high, we should ask the lender to justify the fees prior to issuing the conditional commitment. A lender should be able to document that the charges or fees assessed against borrowers whose loans are guaranteed under the SFHGLP do not exceed charges or fees routinely made by the lender for similar transactions such as FHA or VA loans. Lender justifications should only be required when the Agency is reasonably certain that the fees being charged are not reasonable and/or customary, and therefore ineligible for GRH loan purposes.

In addition, during lender compliance reviews, GRH loan program settlement statements should be reviewed in an effort to ensure that GRH program borrowers are being charged fees that are reasonable and customary, including fees that may not have been part of the GRH loan amount. Lenders that are determined to be out of compliance should be counseled on the provisions of the regulation and should be monitored closely for future compliance.

Should there be any comments or questions concerning this AN, please contact Joaquín Tremols at (202) 720-1465 or jtremols@rdmail.rural.usda.gov.